

MARYLAND NATIONAL GUARD

TECHNICIAN PERSONNEL  
REGULATION 430

PERFORMANCE MANAGEMENT

HUMAN RESOURCE OFFICE

Fifth Regiment Armory, Baltimore, MD 21201-2288

## Performance Management Maryland National Guard Performance Appraisal System

**Summary of Changes.** This regulation establishes the Performance Appraisal System for all Maryland Army and Air National Guard Technicians. It provides guidance for a Five (5) Level Performance Appraisal System: Outstanding, Exceptional, Successful, Marginal, and Unacceptable. It recommends Alternative Dispute Resolution (ADR) as the primary means to solve Performance Appraisal disputes. It also clarifies the new procedures for when comments are required for various summary ratings and performance awards. The new HRO Forms 430e and 430-1e are embedded into this document for easy reference.

**Applicability.** This regulation applies to all military and competitive National Guard Technicians employed under the provisions of 32 U.S.C. 709 who are serving in a position under an appointment scheduled for more than one year.

**Supplementation.** Supplementation of this regulation is not authorized without prior approval from the HRO.

**Suggested Improvements.** Users of this regulation are invited to send comments and suggested improvements directly to Human Resource Office (MDNG-AG-HRO), Fifth Regiment Armory, 29<sup>th</sup> Division Street, Baltimore, Maryland 21201-2288.

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\*This regulation supersedes MDNG Technician Personnel Regulation TPR 430, 15 July 1999.

HRO Form 430, dated 15 July 1999 is changed to HRO Form 430e dated 30 October 2002.

HRO Form 430-1, dated 15 July 1999 is changed to HRO Form 430-1e dated 30 October 2002.

**1. Purpose**

To guide managers, supervisors and Technicians in the administration of the Maryland National Guard Performance Appraisal Program. It is consistent with NGB TPR 430, dated 1 October 1997.

**2. References**

- a. DOD Directive 1400.25, "DOD Civilian Personnel Management System," November 25, 1996.
- b. Title 5, Code of Federal Regulation, Parts 430, 451, and 531.
- c. National Guard Technician Act of 1968, PL 90-486 (as amended).
- d. Negotiated Agreement, if applicable.

**3. Objectives**

- a. Have in existence a performance appraisal system that stipulates expedient feedback to subordinates and improves individual/organizational performance.
- b. Encourage two-way communication between the supervisor and the Technician.
- c. Ensure the performance appraisal system is supported and used in a fair and equitable manner.

**4. Responsibilities**

- a. The Chief, National Guard Bureau, through the Director of Human Resources (NGB-HR) is responsible for the establishment, management and evaluation of the National Guard Performance Appraisal Program.
- b. The Adjutant General (or designated representative) is responsible for the following:
  - (1) Establishing a Performance Appraisal Program within the state, and for holding managers and supervisors accountable for proper operation and administration of this program.
  - (2) Communicating with supervisors and Technicians (e.g. through formal training) about relevant parts of the State's Performance Appraisal Program.
  - (3) Establishing a State Review and Appeal Board process to review and resolve complaints regarding assigned ratings.
  - (4) Ensuring managers and supervisors are appraised on performance in furthering Equal Employment Opportunity (EEO) and Safety & Occupational Health goals and objectives. (Appendix A & B).
  - (5) Ensuring written performance standards are established for each Technician position, including those serving in a trial period.
- c. Human Resource Office (HRO) is responsible to The Adjutant General for:

(1) Assisting managers in setting up a Performance Appraisal Program that provides a meaningful, efficient method for evaluation of an individual, team (where elected), and organizational performance in partnership with Technicians and their union representatives in accordance with the law.

(2) Administering the State Performance Appraisal Program. Providing timely advice and assistance to managers, supervisors, and Technicians.

(3) Developing and conducting training necessary to ensure that all Technicians (and non-Technicians involved in the appraisal process) are adequately trained in the Performance Appraisal Program including responsibilities of all parties involved.

(4) Notifying supervisors and managers of the due dates for Technician performance ratings and following up when they are not received in a timely manner.

(5) Reviewing completed ratings for timeliness, completeness, and conformance with regulatory requirements of the Performance Management Program.

(6) Keeping necessary records, evaluating effectiveness of the Performance Management Program, and bringing to the attention of The Adjutant General those areas needing refinement or improvement.

(7) Ensuring necessary personnel actions or decisions based on the performance appraisal are carried out.

(8) Establish and administer the Alternative Dispute Resolution (ADR) Program and the State Review and Appeals Board.

d. Supervisors will be responsible for the following:

(1) In conjunction with the Technician, establish written performance standards for each position supervised.

(2) Inform the Technician of the level of performance required for a successful performance appraisal.

(3) Provide performance counseling on a continuing basis that will keep Technicians informed as to how their performance compares to the established performance standards and critical elements. (See Paragraph 10).

(4) Give guidance and assistance as necessary on how performance can be improved.

(5) Ensure Technicians receive a performance appraisal annually not later than 30 days from the end of the Technician's birth month.

(6) Recommending the Reviewing Official review performance appraisals prior to discussion/issuance to the Technician. Should a

discrepancy arise pertaining to the contents or summary level of a performance appraisal, the next higher level manager or supervisor will resolve the matter.

(7) Ensure Technicians are aware of their appeal rights and the process of filing an appeal.

(8) Ensure Technicians receive an original performance appraisal and performance standards containing critical elements.

(9) Ensure Technicians are aware of what constitutes a critical element.

(10) Encourage Technician personal development. Development in this instance means increasing the capacity to perform through training; giving assignments that introduce new skills or higher levels of responsibility; or improve work processes. Providing Technicians with training and developmental opportunities; encourages good performance; strengthens job-related skills and competencies; and helps Technician personnel keep up with changes in the workplace.

e. Reviewing Officials will be responsible for the following:

(1) Making a comprehensive review of the Technician's performance standards and critical elements and performance appraisal, prior to issuance to the Technician.

(2) Approve or recommend personnel actions or decisions resulting from performance appraisals in accordance with established procedures.

(3) Certify, by signature, approval or disapproval of all performance appraisals. (Signature required).

f. Higher Level Manager or Supervisor: Will resolve, if necessary, discrepancies or disagreements between the Technician's Rating Official, and the Reviewing Official. Higher level managers or supervisors are not required to sign performance appraisal summary ratings at any level.

g. Technicians are responsible for the following:

(1) Participate in the development of performance standards.

(2) Advise supervisors of the need, if necessary, to revise performance standards.

(3) Request clarification of any performance standard if it is not clearly understood.

(4) Identify work problems and cooperate with the supervisor in resolving any problems

(5) Advise supervisors of any special projects and circumstances that should be considered in the performance appraisal.

(6) Discuss objectives for improving job performance.

(7) Bring to the supervisors attention when your performance appraisal is due.

## 5. Basic Fundamentals

a. Maryland National Guard Technicians will receive a performance appraisal annually. This is an entitlement, and not the discretion of a supervisor. Performance appraisals will close out as of the end of the Technician's birth month each year. The minimum period for a performance appraisal is 120 days (See Paragraph 13,14 and 15). The performance appraisal is due in the Human Resource Office (HRO) not later than 30 days from the end of the Technician's annual appraisal cycle. Directors and Group Commanders will be provided with a list of all performance appraisals that are overdue by more than 60 days. The Wing Commander and the Chief of Staff will be provided with a list of all performance appraisals that are overdue by more than 90 days. If an extension is needed, contact the HRO representative as soon as possible.

b. Technicians must be informed of and receive a set of written performance standards and critical elements within 30 days of employment, reassignment, promotion, change to lower grade, position change, transfer, etc. See remarks on Standard Form 50.

c. Technicians must be provided feedback periodically throughout the performance period. They must be informed on how well they are performing in comparison with established performance standards and critical elements. One mid-term progress review is required during each appraisal period. Progress reviews must be informative and developmental in nature and should focus on how to improve, if necessary, future performance. Counseling sessions will be recorded on NGB Form 904-1, until exhausted, or Modern Defense Civilian Personnel Data System (DCPDS) generated Reports on Individual Personnel (RIPs).

d. The results of a performance appraisal will be used as a basis for training, reassignments, determining pay increases, within grade increases, promotions, reductions in grade, removals, and as a basis for assisting Technicians in improving unacceptable performance.

e. Actions to reassign, reduce in grade, or remove based on unacceptable performance may be taken only after the Technician has been given an opportunity to improve.

f. An ADR Program and Review and Appeals Board will be established to review and resolve disagreements over performance appraisals.

g. All newly appointed personnel would serve a Trial period of one year.

h. Official performance records maintained in the HRO are available for review by the Technician concerned. These include, but are not limited to, performance standards and critical elements,

performance appraisal, incentive awards documentation, trial period notification, and progress reviews.

## 6. Performance Standards and Critical Elements

a. The National Guard Performance Appraisal System requires the supervisor and Technician jointly, at the beginning of the appraisal period, to review the job requirements, and identify critical and non-critical elements and standards.

b. Although the Technician is encouraged to participate in the composition of the performance standards and critical elements, the Rating Official has final approval authority with the Reviewing Official's concurrence.

c. Performance standards may contain any combination of critical and non-critical elements, however, each performance standard must have at least one critical element that addresses individual performance.

d. The performance standard and critical elements should be expressed in terms of expected results or method of performance.

e. The performance standard and critical elements should be measurable, understandable, verifiable, equitable, and achievable; they should be able to present a challenge to the Technician; be consistent with the grade level and duties of the position; and be clear and precise.

f. Personnel actions such as a promotion, reassignment, realignment, change to lower grade, or excepted appointment require the establishment of new performance standards and critical elements. Updates should reflect, as much as possible, significant changes to a position.

g. The original performance standard and critical elements will be given to the Technician. A copy will be filed in the Supervisor Work Folder (SWF), and copy forwarded to the HRO for inclusion in the Employee Performance File (EPF).

h. Performance Standards & Critical Elements may be established to include exceptional or higher summary levels of performance. They must, however, always indicate a successful level of performance.

## IMPORTANT CONSIDERATIONS WHEN DEVELOPING PERFORMANCE STANDARDS AND CRITICAL ELEMENTS

### SUPERVISORS SHOULD BE ABLE TO ANSWER YES TO THE FOLLOWING QUESTIONS:

- ✓ Are tasks clearly and simply stated, and do they cover all critical duties?
- ✓ Does the performance standard clearly state how well (quality), how soon (timeliness/quantity), and in what

manner each task should be performed? Where feasible, are work units used, and do they allow a reasonable margin or tolerance?

- ✓ Does the performance standard truly reflect successful performance? Are they attainable? Can they be exceeded?
- ✓ Will adequate performance as defined in the performance standard produce the required results?
- ✓ Does the performance standard clearly reflect management's requirement in terms of observance of rules, regulations and safety responsibilities?
- ✓ Is the performance standard written so that unacceptable performance can be identified and remedial action justified?
- ✓ Is the performance standard written so that exceptional performance can be clearly distinguished from successful performance and an incentive award nomination substantiated?
- ✓ Were all tasks discussed with the Technician before arriving at a decision? Has the performance standard been discussed with the next level of supervision to ensure that they are in line with other offices or units in the organization?

## 7. Identification of Critical Elements

a. Identification of what constitutes a critical versus a non-critical job element is accomplished by conducting an analysis of the duties and responsibilities of the Technician's job.

b. Identify organizational goals and objectives, then specific duties and responsibilities. If necessary, consider important project assignments that contribute to the goals and objectives for which the Technician will be held accountable.

c. When identifying critical elements, consider what impact not performing the critical job standard will have on the organization's goals, objectives and mission.

d. Sources that may prove beneficial to identifying critical job elements are:

- job descriptions
- mission and function statements
- inspection reports
- locally developed performance requirements

## IMPORTANT CONSIDERATIONS WHEN IDENTIFYING CRITICAL ELEMENTS

### DETERMINING CRITICAL ELEMENTS:

A critical element of a job is one that is significant enough that if performance is below the minimal level of established standard for the job element, it could result in remedial action, denial of a With-In-Grade Increase (WGI), reassignment, or reduction in grade or removal.

### ASSURING CRITICAL ELEMENTS ARE CRITICAL:

### SUPERVISORS SHOULD BE ABLE TO ANSWER YES TO THE FOLLOWING QUESTIONS:

- ✓ Are you willing to recommend the removal or demotion of the Technician if the performance standard for this element is not met?

- ✓ Will substandard performance of this element really affect mission accomplishment?
- ✓ Is there at least one critical element established for this job?

#### **CRITICAL ELEMENTS FOR MANAGERIAL & SUPERVISORY PERSONNEL**

- ✓ Do the performance standards for managerial and supervisory positions reflect such factors as leadership, decision making, planning and organizing, managing positions, selecting and assigning Technicians, evaluating Technician's performance, training/developing Technicians, using incentives to reward Technicians, maintaining Technician management communications, administering constructive discipline, administering leave, and promoting safety and EEO?

### **8. Performance Appraisal Process**

a. Preparation of a performance appraisal is a continuing process. Each Technician should understand exactly what is expected of him or her during the performance appraisal period. This necessitates periodic review of the Technician's performance and a discussion of how he or she is doing compared to established performance standards and critical elements. Therefore, it is encouraged that supervisors keep notes and documents that show how the Technician is performing. Technicians should keep records of special achievements or other actions that clearly show their level of performance during the performance appraisal period.

b. The supervisor or designated Rating Official will assign a summary rating level of Outstanding, Exceptional, Successful, Marginal, or Unacceptable on the HRO Form 430-1e.

c. Comments are optional for ratings of Outstanding, Exceptional, and Successful. However they are required for ratings of Marginal, Unacceptable and Non-Retain. Comments are also required for all recommendations for Sustained Superior Performance or Quality Salary/Step Increase Awards. Comments may be in narrative or bullet format. (See Appendix A of MDNG TPR 451)

d. Summary levels depict the following:

(1) A summary rating level of Outstanding signifies that throughout the Technician's rating cycle, performance has continually exceeded the expectations of all identified critical and non-critical elements.

(2) A summary rating level of Exceptional signifies that throughout the Technician's rating cycle, performance frequently exceeded the expectations for each identified critical and non-critical element.

(3) A summary rating level of Successful signifies that the throughout Technician's rating cycle, performance met the expectations of all identified critical and non-critical elements.

(4) A summary rating level of Marginal signifies that throughout the Technician's rating cycle, he or she did not perform to standard some of the identified critical and non-critical elements. Comments are required along with a Performance Improvement Plan (PIP) (See Paragraph 11)

(5) A summary rating level of Unacceptable signifies that throughout the Technician's rating cycle, he or she did not meet the expected critical performance standards. Summary ratings of Unacceptable require comments specifically describing the performance deficiencies. Regardless of the overall rating, an individual job element of Unacceptable on any critical element will result in an overall performance appraisal of Unacceptable, and remedial action is required.

e. Signatures should be obtained in the following order. Rating Official first, Reviewing Official second, and the Technician last.

f. The Technician's signature does not indicate concurrence with the summary rating, it only signifies the Technician has reviewed, discussed and received a copy of the performance appraisal. A Technician's refusal to sign and date their performance appraisal will be noted in the signature block by the Rating Official. A witness statement is required. (See Paragraph 9d (1-5) and Appendix D)

g. In the event the Technician did not have an opportunity to perform a critical or non-critical element, no rating will be assigned. The words "**NOT RATED**" are written in the appropriate space.

### **9. Presentation**

a. Supervisors will select a suitable location for the annual performance appraisal counseling. If possible, a separate room, not open to the public view should be used. Only the rating official and the Technician need be present.

b. The following guidelines will be used when presenting an employee with their annual performance appraisal.

(1) Discuss the Technician's general performance for the rating period.

(2) Discuss specific issues covered by the performance appraisal.

(3) Allow the Technician time to read the appraisal.

(4) Review and discuss the HRO Form 430e, Technician Performance Standards and Critical Elements. Ensure that no significant changes have occurred in the Technician's job description or duties.

(5) Allow the Technician an opportunity to ask questions.

c. Once all issues are reviewed and discussed, the Technician should sign the performance appraisal.

The original performance appraisal will be given to the Technician; a copy filed in the Technician's SWF; and a copy forwarded to the HRO for inclusion in the EPF.

d. If a Technician refuses to sign his or her performance appraisal, the supervisor must explain that the Technician's signature acknowledges receipt of the performance appraisal and discussion of its contents. The signature does not necessarily indicate concurrence with the rating. Supervisors must explain the performance appraisal appeal process at this time. (See Para 17 & 18) If the Technician continues to refuse to sign the performance appraisal, the supervisor must suspend the discussion until a witness to the presentation can be summoned. Once a witness is present (selected by the supervisor) the supervisor must:

(1) Indicate to the Technician that the person present is only there to witness the presentation of the performance appraisal.

(2) State that a discussion took place between the supervisor and the Technician regarding the performance appraisal.

(3) Ask the Technician to sign the performance appraisal.

(4) If the Technician refuses to sign, explain the appeal process indicated in this regulation.

(5) Conclude the session and prepare a statement showing that the supervisor presented the performance appraisal, and the Technician refused to sign. This statement should be signed and dated by both the supervisor and witness, and should reference any unusual or special circumstances that were observed. The statement is forwarded with the Technician's performance appraisal to the HRO. (See Appendix D for a sample statement)

## 10. Performance Counseling

a. One of the primary objectives of the performance appraisal system is to improve communications between the rating official and the Technician concerning performance expectations and results. Supervisors should frequently praise and encourage Technicians who are meeting objectives, and assist Technicians who are not. Supervisors should never wait until the formal performance appraisal to tell Technicians that performance was not successful. The Technician must be told as soon as the supervisor is aware of a problem.

b. Supervisors will counsel Technicians at least twice yearly. The first counseling session will be formal, and performed at the annual closing date of the Technicians' performance appraisal cycle.

c. The second counseling session, which is informal, is the six month progress review counseling. This progress review does not prohibit

supervisors from monitoring Technician performance on a continual basis. Continuous monitoring provides the opportunity to check how well Technicians are meeting predetermined performance standards and to make changes to unrealistic or problematic performance standards. Monitoring continually should help identify unacceptable performance and assistance can be provided to address such performance rather than waiting until the end of the performance appraisal period.

d. If it is determined the Technician's performance is Marginal or Unacceptable, the supervisor should consider placing the Technician in a PIP.

e. Counseling sessions will be documented on NGB Form 904-1 or Modern DCPDS RIP with the date, substance of the counseling and the Technician's initials.

## PERFORMANCE COUNSELING SHOULD

### Focus Discussion on Behavior Rather Than the Person.

It is important that supervisors discuss what the Technician does rather than what the Technician is.

### Focus Discussion on Observation Rather Than Opinion.

Observations refer to what you can see or hear in the behavior of the Technician. Opinions and/or conclusions about a Technician cause harm to employee-employer relationships, thus clouding the feedback. When an opinion is offered, and it may be valuable to do this sometimes, it is important that it be identified as an opinion.

### Focus Discussion on Behavior Related to a Specific Situation.

Everything people do is related in some way to time and place. Discussion will be most meaningful if you give feedback as soon as the performance is observed and tie it to the specific situation observed.

### Focus Discussion on Sharing of Ideas and Information.

By sharing ideas and information, the supervisor leaves the Technician free to decide how to use the ideas in light of his or her own objectives. On the other hand, when the supervisor gives advice, the Technician is told what to do with the information. In effect, the Technician's freedom to determine the right or appropriate course of action is taken away. If the Technician is able to choose his or her own proper course of action, more commitment to achieving success will usually result.

### Ensure that Performance Counseling is Conducted at the Appropriate Time.

Because receiving and using feedback may involve possible emotional reactions, it is important for the supervisor to be sensitive to the right time and place to give an evaluation. Successful performance information given at an inappropriate time may do more harm than good.

## 11. Performance Improvement Plan (PIP)

The PIP is a plan designed to put in writing the Technician's performance deficiencies. It describes what a Technician must do in order to bring their performance to a successful level. The PIP must include:

(1) How the present performance fails to meet the established performance standards and critical elements.

(2) What improvement(s) must be observed to raise the performance appraisal rating to a Successful level.

(3) What methods or procedures will be provided in order to assist the Technician in bringing the substandard performance to a Successful level to include:

- (a) On-the-job training
- (b) Increased supervisory assistance, review, and performance counseling.
- (c) Formal Training

(4) The period of time during which the Technician will be provided the opportunity to improve. This period is referred to as the "opportunity period". The opportunity period will not be less than 30 days and may not exceed more than 90 days from the establishment of the PIP.

(5) Offer the Technician an opportunity to contact the Technician Assistance Program (TAP) coordinator for assistance dealing with any personal problem that may have an impact on the Technician's performance.

(6) A description of the types of personnel actions that will result if performance is not improved to a Successful level during the opportunity period.

(7) The opportunity to render the appropriate rating if the Technician's performance improves.

(8) The option for the supervisor to initiate appropriate action to either reassign, reduce in grade, or remove the Technician based on substandard performance in one or more critical elements. (See Paragraph 16, Unacceptable Performance).

(9) A HRO Form 430e may be used to document the PIP.

## 12. Trial Notification

a. New Technicians must to be carefully observed during the trial period to determine whether they possess the qualities necessary for permanent federal government service. During this period, supervisors should provide the Technician with the Performance Standards and Critical Elements necessary to be fully successful in their assigned job. Supervisors should also provide specific guidance, training, and feedback to improve the Technician's work performance if needed. The trial period is 1 year and cannot be extended.

b. Supervisors of Technicians serving a trial period must submit through channels to the HRO a HRO Form 430-1e. The Rating Official will check the appropriate block to Retain or Non-Retain the Technician. If retention is recommended the Rating Official conducts a counseling session with the

Technician; annotates NGB Form 904-1 or Modern DCPDS RIP; obtains the Technician's signature and date; signs and dates the form; gives the original notice to the Technician; and forwards a copy to the HRO. This notification is not considered an official appraisal for the purpose of appeal rights. There are no appeal rights regarding trial notices.

c. If retention is not recommended, the supervisor will contact the HRO to initiate the removal action and complete the HRO Form 430-1e recommending non-retention. A removal action can be initiated anytime during the trial period. Do not wait until the last minute to Non-Retain a Technician. Non-Retain ratings should be initiated no later than the beginning of the 11<sup>th</sup> month and must arrive at the HRO in sufficient time to remove a Technician from service before their trial period expires. Even though there are no appeal rights for a Non-Retained Trial Technician a comment is required on the HRO Form 430-1e. This will help the HRO determine if there is a deficiency in the recruitment, hiring, supervision or training of new Technicians.

d. A Technician serving a trial period will not be given an official performance appraisal until after completing the required 12 months of federal service. For example, you hired a Technician on 10 January 1995 and his/her birth month is November. The following describes the manner in which this individual will receive his/her Performance Standards & Critical Elements, Trial Notification, First Official Performance Appraisal and the period for his/her Annual Rating:

- Performance Standards & Critical Element: 10 Jan 95-30 Nov 96
- Trial Notification: 10 Jan 95- 9 Jan 96
- First Official Performance Appraisal: 10 Jan 96-30 Nov 96
- Annual Cycle: 1 Dec – 30 Nov (Annually)

## 13. Closeout Performance Appraisal

a. **Technician.** Supervisors will prepare a closeout performance appraisal when a Technician moves to another position. Closeout performance appraisals will be completed if 120 days has passed since the last performance appraisal. If 120 days has not passed, no closeout performance appraisal is required. The new supervisor will include that period when evaluating the Technician (consult the previous supervisor, if available) at the end of the rating cycle.

b. **Supervisor.** Supervisors who move from one position to another will be required to closeout all Technician performance appraisals; review previously established performance standards for their new Technicians; and make changes as necessary. If the performance appraisal has been completed within the last 120 days, a close out



performance appraisal is not required. Losing and gaining supervisors must monitor changes or movements of their Technicians to ensure compliance with the closeout performance appraisal process.

#### **14. Performance Appraisals While on Detail**

When a Technician has been officially (SF 52 received in the HRO) detailed to another position a written set of performance standards and critical elements will be established if the expected duration of the detail will exceed 120 days. The supervisor (permanent position) of the detailed Technician will evaluate the Technician's performance as part of his or her annual performance appraisal. The permanent supervisor may consult the supervisor of the detail for additional information regarding the employee's performance.

#### **15. Postponement of Annual Performance Appraisal**

a. An annual performance appraisal may be postponed for not more than 120 days when the immediate supervisor has not had enough time to observe the Technician's performance in his/her present assignment because:

- the supervisor or the Technician is newly assigned.
- the Technician has not been performing regularly assigned work because of extended details or absences.
- the Technician's performance is temporarily unacceptable because of a medical situation or illness, alcoholism, or drug abuse rehabilitation.
- the Technician has been deployed.

b. Supervisors must inform the HRO of their intent to extend an appraisal.

#### **16. Unacceptable Performance**

a. Technicians will be informed immediately when their performance is unacceptable in any element of their job and will be assisted in improving areas of unacceptable performance by counseling and a written PIP. The PIP will include proactive counseling, increased supervisory assistance, and additional training. These efforts must be in writing (HRO Form 430e) and documented on the NGB Form 904-1 or Modern DCPDS RIP during the counseling session. If a Technician's performance in any critical element continues to be unacceptable (despite efforts by the supervisor or manager to assist the Technician in improving performance) the Technician will be advised that he or she may be reduced in grade (demoted), or removed from Technician employment. Before initiating an action to reduce in grade or remove a Technician from

employment, consideration should be given to reassigning the Technician to another position for which he or she may qualify. No action based on Unacceptable performance may be taken until critical job elements and performance standards have been identified in writing; the Technician has received a copy of these standards; and the Technician is given an opportunity to improve performance.

b. Requirements. An action to reduce in grade or remove from employment may be initiated by the Technician's supervisor if the Technician's performance continues to be unacceptable in one or more critical job element. The supervisor does not need to wait until the end of the appraisal period to initiate these actions. A permanent Technician against whom such an action has been initiated is entitled to:

(1) A minimum 30 day advance written notice of the action to be taken (reduction in grade, reassignment or removal), which identifies the critical job element(s) and instances of unacceptable performance on which the action is based. An official who is in the supervisor's next higher level of the chain of command must concur with this 30-day written notice. This is not a proposed notice. It is a final notice of the action to be taken. (See Appendix C).

(2) An opportunity to answer orally or in writing to the supervisor, request ADR or appeal to the Review and Appeals Board. At the HRO's discretion, the effective date of separation or reduction in grade may be extended awaiting the outcome of ADR or the Board's final decision.

(3) An opportunity to submit a request to his/her supervisor to change an Unacceptable Performance Appraisal. The supervisor will carefully review this information and advise the Technician in writing whether the Unacceptable Performance Appraisal is sustained or will be changed. Requests submitted for ADR or to the Review and Appeals Board will be handled in accordance with the instructions in paragraph 17 and 18.

#### **17. Alternative Dispute Resolution (ADR)**

a. ADR is the recommended means of resolving any disputes concerning a Performance Appraisal. Requests for ADR should be submitted not later than 30 days after receipt of an other than Unacceptable Performance Appraisal, and 15 days after receipt of an Unacceptable Performance Appraisal.

b. An informal meeting (Mediation) consisting of the Rating Official, the Technician, HRO representative, and/or a union official may be requested by the Technician or Management to resolve the performance appraisal discrepancy,

and/or recommend adjustments to the performance appraisal.

c. If mutually accepted in writing, the result of the mediation process will become final. Filing a subsequent Performance Appraisal Appeal is not permissible.

### **18. Review and Appeals Board**

#### **a. Designation of Members**

(1) The Review and Appeals Board will be appointed by the HRO and consist of at least three members and a non-voting recorder.

(2) No member of the board will be in the appellant's chain of command.

(3) No member of the board will be in a lower graded Technician position than the appellant.

(4) The senior ranking member of the board will act as the board's chairperson.

#### **b. Filing an Appeal for reasons other than an Unacceptable Performance Appraisal**

(1) A Technician who wishes to file an appeal of his or her performance appraisal may file an appeal to the Review and Appeals Board not later than 30 calendar days after the Technician has received the performance appraisal.

(2) When reviewing performance appraisal appeals, the board, by majority vote will recommend to the Adjutant General to change the appraisal as requested by the Technician, or sustain the appraisal without change.

(3) The Adjutant General's decision is final. There are no appeal rights beyond the Adjutant General.

#### **c. Filing an Appeal for Receipt of an Unacceptable Performance Appraisal**

(1) A Technician who wishes to file an appeal of his or her performance appraisal based on the receipt of an Unacceptable Performance Appraisal may file an appeal to the Review and Appeals Board not later than 15 calendar days after the Technician has received the performance appraisal.

(2) When reviewing unacceptable performance ratings, the board will only be concerned with the performance appraisal; the board will not review the personnel action taken as a result of an unacceptable appraisal.

(3) The Adjutant General's decision is final. There are no appeal rights beyond the Adjutant General.

#### **d. Appeal Process**

(1) An appeal is submitted to the Human Resource Office. It must be received no later than 30 calendar days after the Technician has received his or her performance appraisal—15 calendar days for ratings of Unacceptable.

(2) The appeal will be submitted in letter format, and contain the following information:

- Name of the Technician
- Organization of employment
- The appraisal being appealed (copy)
- Why the appraisal should be changed (if necessary address each job element and indicate what the discrepancies are).
- Date the Technician received the notice (date the Technician signed the performance appraisal) or (the date the Technician received the notice of unacceptable performance).
- Copy furnished to your supervisor

(3) When all the necessary information is not available, the Technician should submit what they have and state why the other information is not available.

#### **e. Human Resource Office**

The HRO representative will:

(1) Review all requests for a performance appraisal appeal and evaluate them to determine if ADR is an appropriate course of action before submitting them to the Review and Appeals Board.

(2) Coordinate with the Chairperson the time and location of the board.

(3) Submit notifications regarding the Review and Appeals Board to the Technician, the Technician's representative, the representative for management, and witness(es).

(4) Attend Review and Appeals Board proceedings as technical advisors only.

#### **f. Board Procedures for members**

(1) Board members will serve as impartial fact finders and review each case objectively. They will give consideration to the merits of each case, and secure all necessary information.

(2) The board may not receive or consider information not directly related to the matter being reviewed.

(3) Within 15 calendar days from the date the board convened, the board's recommendation will be submitted directly to the Adjutant General with an information copy provided to the HRO. The Adjutant General has final authority. The Adjutant General should reply to the appellant within 30 calendar days from receipt of the board's recommendation and provide a copy to the HRO.

(4) The chairperson will make every effort to limit the Review and Appeals Board to one (1) day.

#### **g. Board Procedures during the meeting**

(1) The board may admit oral evidence from the Technician and the immediate supervisor.

(2) The Technician and his or her representative (if desired) and the representative for management will submit only information the board

deems pertinent. Such information may be presented orally (by presentation of witness) or in writing.

(3) The submission of evidence, both oral and written may be considered in order to reach a decision. The Technician, the Technician's representative, and the representative for management must be given the opportunity to hear, examine, and reply to the information submitted and have the opportunity to question the witness(es).

(4) If any of the individuals mentioned above are absent during the oral presentation, the absentee(s) must be furnished in writing any evidence admitted during their absence.

(5) The board may not use any written information to render a recommendation until the Technician, the Technician's representative (if any), and the representative for management have had an opportunity to examine, and reply to it.

By Order of The Adjutant General of Maryland:

ANNETTE M. DEENER  
Colonel, GS, MDARNG  
Human Resource Officer

**DISTRIBUTION:**

All Full-Time Technician Support Managers/Supervisors  
ACT 125, Maryland Air National Guard, Warfield Air Base, MD  
CCACT, Maryland Army National Guard, AASF, EA, APG, MD  
LIUNA 1692, Maryland Army National Guard, Havre de Grace, MD

**APPENDIX A****GUIDELINES FOR APPRAISING MANAGERS AND SUPERVISORS  
ON THEIR PERFORMANCE IN EEO**

Performance standards for furthering Equal Employment Opportunity (EEO) will be appropriate to the Technician's position and should be stated in terms of visible affirmative efforts. Therefore, the following guidelines may be used when appraising managers and supervisors in their performance of EEO.

- ✓ Has the manager/supervisor communicated to all subordinates his/her commitment to EEO and what is expected from each member of their section?
- ✓ Has the manager/supervisor discussed the State Affirmative Employment Plan with subordinates and solicited recommendations for implementation, modification, or improvements.
- ✓ What specific actions have the manager/supervisor taken to identify and eliminate the barriers to the employment and advancement of minorities and women?
- ✓ Does the manager/supervisor support the Maryland EEO Policy ?
- ✓ Does a review of the manager's/supervisor's decisions relative to selection, training, and awards indicate that full consideration is being given to all employees?
- ✓ What actions has the manager/supervisor taken to provide upward mobility opportunities for eligible Technicians in their section.
- ✓ What specific steps, including setting a personal example, has the manager/supervisor taken to assure the acceptance of all Technicians?
- ✓ Does the manager/supervisor maintain records that show formal EEO training of all subordinate managers/supervisors, including both initial and updated orientation?
- ✓ Does the record show that the manager/supervisor assigns like disciplinary action for like offenses regardless of race, color, religion, sex, national origin, age, handicap or other non-merit factor.

**APPENDIX B****GUIDELINES FOR APPRAISING MANAGERS AND SUPERVISORS  
ON THEIR PERFORMANCE OF SAFETY AND OCCUPATIONAL HEALTH**

Performance standards supporting the critical element "Supports Safety and Occupational Health" will be appropriate to the Technician's position and should be measurable. Therefore, the following guidelines may be used when appraising managers and supervisors in their performance of Safety and Occupational Health.

- ✓ Has the manager/supervisor attended an OSHA Compliance Course, a formal Risk Management Course, or Refresher Course?
- ✓ Has the manager/supervisor strived for a minimal mishap rate, to include Worker's Compensation claims in the workplace?
- ✓ Has the manager/supervisor briefed their supervisor and subordinate personnel on accident trends and provided prevention strategies for Risk Management?
- ✓ Does the manager/supervisor provide a safety briefing to their assigned Technicians at least annually. The briefing should cover mandatory compliance items, specific work area safety items, new hazards introduced into the workplace, and the use of Personal Protective Equipment?
- ✓ Does the manager/supervisor ensure that Personal Protective Equipment is available for their sections to protect their Technicians?
- ✓ Does the manager/supervisor participate in unit safety council meetings. (If applicable)?
- ✓ Does the manager/supervisor plan and ensure that subordinate personnel are trained in Accident Prevention and Risk Management?
- ✓ Does the manager/supervisor provide a "Safety Orientation" briefing to all new Technicians and Contractors as necessary?
- ✓ Does the manager/supervisor participate in and support the State and Local safety and health program?
- ✓ Has the manager/supervisor maintained accident data if necessary and trend analysis data unique to the command for the unit safety councils?
- ✓ Has the manager/supervisor submitted and maintained accident reports if necessary?

## APPENDIX C

**SAMPLE NOTICE OF A WRITTEN DECISION BASED ON UNACCEPTABLE  
PERFORMANCE  
(ON LETTERHEAD)**

(OFFICE SYMBOL)

(DATE)

MEMORANDUM FOR I. M. Technician

SUBJECT: Decision to Remove/Reduce in Grade (Unacceptable Performance)

(State the specific action being taken i.e. removal, or change to lower grade. Furnish a copy to the exclusive representative for Technicians in the bargaining unit. Include series and grade of position incumbent occupies and show full unit name and mailing address to which the Technician is assigned.)

1. This memorandum will serve as a formal notice of your (removal/reduction in grade) not earlier than thirty (30) calendar days from the date of receipt of this notice. The reasons for this removal/reduction in grade are:

(Refer to TPR 430 and 5 CFR 430. Give the reason for removal/reduction in grade action. Use all available information in sufficient detail so that the Technician will understand why the action is being taken).

- a. On 1 January 20xx, you and I established written performance standards and identified critical job elements for your position. At that time you acknowledged our discussion of these standards and critical elements.
- b. On 2 March 20xx, I informed you orally and in writing that your performance regarding critical element number \_\_\_\_ pertaining to \_\_\_\_ was unacceptable because you had failed to (list specific instances of unacceptable performance on which this action is based). On 16 March 20xx, I provided you with specific written instructions on how to improve your performance on these critical job element(s).
- c. Despite counseling and on-the-job training, your performance of these critical job element(s) continues to be unacceptable. Therefore, I have initiated this process to (state action being taken).

2. Copies of the Performance Appraisal Materials relied upon to support this action are attached. You may reply to this notification, either orally or in writing, request ADR, or you may appeal the unacceptable performance appraisal to the Review and Appeals Board. You may submit affidavits in support of your response. Your response will be considered an appeal unless you specify otherwise. To be considered, your response must arrive within 15 calendar days of receipt of this notice to the HRO. Consideration will be given to extend this period if you submit a request stating your reasons for requiring more time. You will be given a final determination within 15 calendar days of our receipt from you.

3. You may contact the Human Resource Office for procedural guidance at 410 576-6049.

Supervisor's Signature Block

Encls

(Copy furnished to Human Resource Office)

Receipt acknowledged \_\_\_\_\_  
(Signature) (Date)

I (Technician's name) \_\_\_\_\_ the 15 day response  
(Waive/Do Not Waive)

**APPENDIX D**

**SAMPLE NOTICE OF A REFUSAL TO SIGN A PERFORMANCE APPRAISAL**

I presented SGT Jane P. Nesign, 012-34-5678 with her Performance Appraisal for the period of xx JAN 20xx to xx DEC 20xx on (Date). At this time SGT Nesign has refused to sign the Performance Appraisal. We the undersigned made and witnessed the presentation of this appraisal on (Date).

ISSUING SUPERVISOR:

W.F.SUPERVISOR  
CW2  
SHOP FOREMAN

WITNESSED BY:

B.T. WITNESS  
MSG  
ELECTRONIC FOREMAN

**APPENDIX E**

**Follow the hyperlink to the electronic HRO Form 430e Template.**

**ARMY LINK**

[HRO Form 430e Template](#)

**AIR LINK**

[HRO Form 430e Template](#)

**The HRO Form 430e Template is a protected form that only allows you to fill out the necessary information while maintaining the integrity of the form. "Save As" and rename to a local drive for future use.**



**APPENDIX F**

**Follow the hyperlink to the electronic HRO Form 430-1e Template.**

**ARMY LINK**

[HRO Form 430-1e Template](#)

**AIR LINK**

[HRO Form 430-1e Template](#)

**The HRO Form 430-1e Template is a protected form that only allows you to fill out the necessary information, while maintaining the integrity of the form. "Save As" and rename to a local drive for future use.**

## APPENDIX G

## DEFINITION OF TERMS

**Alternative Dispute Resolution** - A method of resolving problems in lieu of formal, adversarial methods such as litigation or administrative hearings. The process uses a neutral party to help the parties in dispute find mutually agreeable solutions.

**Appraisal** - The process under which a Technician's performance is reviewed and evaluated. Typically, it is conducted annually at the end of the Technician's birth month.

**Appraisal Period** - The established period of time for which performance will be reviewed and a rating of record will be prepared.

**Appraisal Program** - The specific procedures and requirements for an appraisal established within DoD Components under the policies and parameters of the DoD Performance Appraisal System.

**Appraisal System** - DoD-wide policies and parameters governing performance appraisal programs under 5 U.S.C. 43, Subchapter 1, Performance Appraisal, and 5 CFR 430, Performance Management.

**Critical Element** - A work assignment or responsibility of such importance that unacceptable performance of the element would result in a determination that a Technician's overall performance is unacceptable.

**Non-Critical Element** - A dimension or aspect of individual, team, or organizational performance, exclusive of a critical element, that is used in assigning a summary level. Such elements may include, but are not limited to, objectives, goals, program plans, work plans, and other means of expressing expected performance.

**Performance** - The accomplishment of work assignments or responsibilities.

**Performance Standards** - The management approved expression of the performance threshold(s), requirement(s), or expectation(s) that must be met to be appraised at a particular level of performance. A performance standard may include, but is not limited to, quality, quantity, timeliness, and manner of performance.

**Progress Review** - (Formerly, Mid-Appraisal Counseling). Counseling the Technician about performance compared to the performance standards of critical and non-critical elements half way through their Appraisal Period.

**Rating of Record/Summary Level** - The performance rating prepared at the end of an appraisal period for performance over the entire period and the assignment of a summary level as specified in paragraph 8d(1-5).